



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

March 6th, 2013

The Honorable Joseph Socobasin
Tribal Chief of the Passamaquoddy Tribe of Indians
Indian Township Reservation
PO Box 301
Princeton, ME 04668

Re: Notification of Consultation and Coordination: State of Maine Revised Water Quality Standards

Dear Chief Socobasin:

The U.S. Environmental Protection Agency, Region I (EPA) is initiating consultation and coordination with the five Maine tribes regarding a Water Quality Standards (WQS) revisions submission under the Clean Water Act received by EPA from Maine's Department of Environmental Protection (DEP), dated January 14, 2013. The WQS revisions were adopted by Maine in accordance with State law on July 13, 2012. The revisions include changes to the human health criteria for arsenic, acrolein and phenol.

In 2011, the State of Maine legislature passed a law requiring the Maine Department of Environmental Protection (DEP) to revise its arsenic criteria using a cancer risk level of one in 10,000 persons (10^{-4}), rather than one in 1,000,000 persons (10^{-6}) used for all other carcinogenic pollutants. The new criteria for arsenic is based on the 10^{-4} cancer risk, as required by the legislature. EPA's guidance for the development and approval of human health criteria for carcinogenic compounds allows states and tribes to use cancer risk levels between 10^{-6} and 10^{-4} as long as sensitive subpopulations are protected to at least the 10^{-4} cancer risk. Maine identified subsistence fishers as the most sensitive subpopulation and based the new arsenic criteria on a fish consumption rate to protect subsistence fishing populations of 138 grams/day, rather than the general population rate of 32.4 grams/day that Maine generally uses.

The State of Maine has updated its criteria for two additional pollutants, acrolein and phenol, to be consistent with EPA updated standards. For these non-carcinogenic, bioaccumulative pollutants, DEP has used the general population fish consumption rate of 32.4 grams/day. Cancer risk level is not a factor in the calculation of criteria for acrolein and phenol since they are not carcinogenic.

In the attached document, the State of Maine requests EPA approval of these adopted Water Quality Standard revisions as effective throughout the State of Maine, **including "waters within Indian**

territories or lands." This request represents the first time that the State of Maine has explicitly requested approval of state water quality standards as applicable within Indian Country.

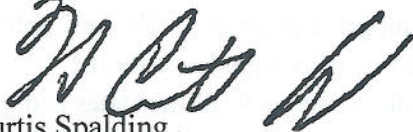
In recognition of EPA's federal trust responsibility and government-to-government relationship with the five federally recognized tribes in Maine, it is my desire to initiate consultation with the Maine tribes regarding this matter, so that EPA can receive input prior to formulating decisions and taking action. Since the Maine tribal leaders expressed their interest in directly engaging in consultation regarding issues of tribal sovereignty on a leadership level, I am writing to you and the other Maine tribal leaders to initiate this consultation and discuss this matter openly with you.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (www.epa.gov/tribal/consultation/consult-policy.htm). The EPA invites you and your designated consultation representative(s) to participate in this process. **The EPA proposes this first consultation meeting for 9:00am on Wednesday, April 3rd 2013, at the EPA New England office in Boston, MA, immediately following the scheduled Tribal Leaders Summit on Tuesday, April 2nd, 2013.**

Enclosed is a consultation and coordination plan for this action that includes a description of the action under consultation and the process EPA intends to follow, including a timeline for the consultation and coordination period and information on how you can provide input on this action. This information will also be available on EPA's Tribal Portal <http://www.epa.gov/tribal/consultation>.

The official EPA contact person for this consultation and coordination process is Captain Michael Stover, P.E., Region I Indian Program Manager. Please do not hesitate to contact Captain Stover at (617) 918-1123 or stover.michael@epa.gov should you have any questions.

Sincerely,



H. Curtis Spalding
Regional Administrator

Enclosure: Tribal Consultation and Coordination Process and Timeline
State of Maine Department of Environmental Protection letter dated January 14th, 2013

cc: Trevor White, Passamaquoddy Indian Township Environmental Director

Tribal Consultation and Coordination Process and Timeline

Date	Event	Contact Information ¹
March 6th, 2013	Letter initiating consultation and coordination	Stover.michael@epa.gov (617) 918-1123
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March 6th, 2013

The Honorable Richard Getchell
Chief of the Aroostook Band of Micmacs
8 Northern Road
Presque Isle, ME 04769

Re: Notification of Consultation and Coordination: State of Maine Revised Water Quality Standards

Dear Chief Getchell:

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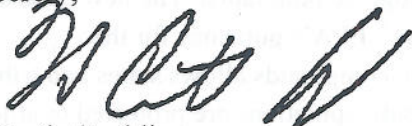
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Sincerely,



H. Curtis Spalding
Regional Administrator

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State of Maine Department of Environmental Protection letter dated January 14th, 2013

cc: Fred Corey, Aroostook Band of Micmacs Environmental Director

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March 6th, 2013

The Honorable Kirk Francis
Chief of the Penobscot Indian Nation
12 Wabanaki Way
Indian Island, ME 04468

Re: Notification of Consultation and Coordination: State of Maine Revised Water Quality Standards

Dear Chief Francis:

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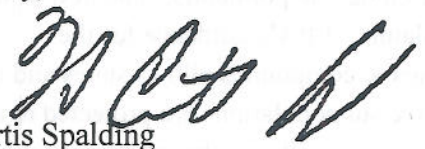
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H. Curtis Spalding
Regional Administrator

Enclosure: Tribal Consultation and Coordination Process and Timeline
State of Maine Department of Environmental Protection letter dated January 14th, 2013

cc: John Banks, Natural Resources Director, Penobscot Indian Nation

Tribal Consultation and Coordination Process and Timeline

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March 6th, 2013

The Honorable Brenda Commander
Chief of the Houlton Band of Maliseet Indians
88 Bell Road
Littleton, ME04730

Re: Notification of Consultation and Coordination: State of Maine Revised Water Quality Standards

Dear Chief Commander:

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cc: Sharri Venno, Houlton Band of Maliseet Indians Environmental Planner

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March 6th, 2013

The Honorable Reuben Clayton Cleaves
Chief of the Passamaquoddy Tribe of Indians
Pleasant Point Reservation
PO Box 343
Perry, ME 04667

Re: Notification of Consultation and Coordination: State of Maine Revised Water Quality Standards

Dear Chief Cleaves:

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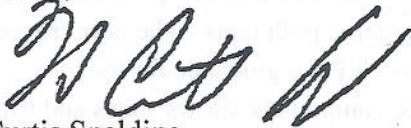
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cc: Marvin Cling, Passamaquoddy Pleasant Point Environmental Planner

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